

LAND-USE PERMITS

Because of their extensive nature, state forests and forest recreation areas often receive requests for use of land. The nature of these requests generally entails some type of access. This may be for ingress or egress, or for some utility with structures. Sometimes the access is very minimal and passing in nature. Other times the access is relatively permanent and very intrusive in nature.

Requests for use can be divided into three use categories based on the length of use and the amount of disturbance. These three use categories are handled by three different methods.

Minimal Use

This type of use is the lowest in terms of impact and length of use and generally entails some type of temporary or sporadic access. It utilizes existing fire/access roads with no major work required or allowed. Major work is anything that requires excavation, soil disturbance, or standing tree removal. Adding stone to wet spots, moving downed trees, or reasonable clearing of overhanging limbs are not considered major.

The amount of use would amount to probably less than ten times per year, and would be sporadic or irregular in nature. No access that is regular should be allowed, such as every week use.

The expected use of this access is unlikely to cause significant damage to the fire/access road. The use is infrequent enough, at good road condition times, and with a light impact vehicle that will have little effect on the fire/access road.

One example of this use is a person wanting vehicle access to his property to hunt for turkey in the spring and deer in the fall. Another example is a farmer who wants access to a field in the spring for planting, in the summer for cultivating, and the fall for harvesting.

Requests for uses of this type of use can be done at the property level with a letter of permission. The length of term for the letter of permission is at the discretion of the property manager, but will not exceed one year. The expiration date should be clearly stated. The letter should include a description of the road via its designation, name or number, and a map. The letter will describe the limits of work the permittee can do on the use area, which are described above. And the letter will include a clause stating that the permission granted by the letter can be terminated before the expiration at the discretion of the property manager. One copy of the letter will be given the permittee, and the original will be retained in a property file specifically for such agreements.

Moderate Use

This type of use is a step above the use described above and generally entails some type of temporary or sporadic access. Again this use utilizes existing fire/access roads, skidtrails, yards or other existing features. It also may include new features such as low impact skidtrails or yards. Major work to the use areas is not allowed unless agreed to in writing. Major work is anything that requires excavation, soil disturbance, or standing tree removal. Adding stone to wet spots, moving downed trees, or reasonable clearing of overhanging limbs are not considered major. Any soil disturbance or excavation beyond an existing disturbed roadway requires archaeological clearance prior to permission being granted. Use areas that do not use existing roads and may involve soil disturbance or excavation will require archaeological clearance, including new yards or skidtrails.

The length of use would amount to probably less than a year, and would be irregular over the prescribed length and concentrated in time. No access that is regular should be allowed, such as an every week access.

This expected use is likely to cause significant damage to the use area. The use, though infrequent, is concentrated and may occur at less than ideal times as far as ground conditions. The use generally involves large, heavy vehicles and equipment with high impact that could significantly damage the use area.

One example of this use is a logger wanting access to skid, yard, or haul across state forest land for a harvest on neighboring land. Another example is a utility contractor who wants access to a utility right-of-way on neighboring land to install new lines.

Requests for uses of this type of use are approved at the Division level. The approval is started at the property level with the property completing all the information on a **Letter of Agreement for Use of State Property**. The length of term for the letter of agreement is at the discretion of the property manager, but will not exceed one year. The expiration date should be clearly stated. The letter should include a description of the specified use area via its designation, name or number, and a map. The agreement will describe the limits of work the permittee can do on the use area, and will specifically describe any major work the permittee is allowed to do. This document will identify whether existing features (roads, yards, skid trails) will be used, or if new features are to be created. The Property Specialist should be contacted prior to completing paperwork if significant work is to be done.

The property will prescribe a performance deposit in an amount the property feels is reasonable to cover the expenses of repairing possible damage to the use area for the prescribed use, and condition of the use area. This performance deposit will be handled the same as a timber sale performance deposit. A Receipt 352 will be completed with the permittee receiving a copy, and the property keeping a copy for audit purposes. The property will keep a photocopy of

the check and receipt with the permit paperwork. The yellow receipt copy and the check will be sent to the Central Office Support Services Section Chief with a copy of the **Letter of Agreement**. This will be sent via certified mail, similar to a timber sale deposit.

The original **Letter of Agreement**, map delineating the area, photocopy of performance deposit check and photocopy of deposit receipt will be sent to the Property Specialist for review. The Property Specialist will pass the letter to the Division Director for approval. The **Letter of Agreement** is not complete and cannot be implemented until it is approved by the Division Director. Once approved, the original letter will be retained in Central Office, and two copies will be sent to the property - one for property files, and one for the permittee.

The Property Specialist will maintain a file of active and recently expired **Letter of Agreements**. The properties will also maintain a similar file.

Major Use

This type of use is a step above the use described above and can often involve uses other than vehicle access. It will consist of one or more of the following factors that raise it above the previous use level. This use may or may not use existing fire/access roads, skidtrails, yards or other existing features. Major work to the use areas is not allowed unless agreed to in writing. Major work is anything that requires excavation, soil disturbance, or standing tree removal. Adding stone to wet spots, moving downed trees, or reasonable clearing overhanging limbs are not considered major. Any soil disturbance or excavation beyond the existing disturbed roadways requires archaeological clearance prior to permission being granted. Use areas, which are not existing roads, and that may involve soil disturbance or excavation will require an archaeological clearance.

The length of use is long term, and may be almost permanent in nature. This would include use that is regular in nature, but not necessarily to a large amount of use time.

The expected use may be likely to cause significant damage to the use area. The use may utilize heavy vehicles or equipment. Often the use may require major work be done to improve an existing road or other feature, or involve the actual creation of a road, utility corridor, or other feature.

By statute, all utility lines installed across state forest land, even within an existing right-of-way, easement, and public road right-of-way fall in this category. The only utility lines exempt from this are those that were installed prior to state acquisition of the land, or those installed strictly for property use. Utilities installed for property use are still outlined under an agreement or contract. New utilities that utilize the facilities of another utility (such as phone company using electric company poles) are not covered by the other utility permit and must obtain their own.

Utilities are one common example of a somewhat permanent use that falls in this category. Access lanes to private property are another example of this use.

Requests for uses of this type are approved at the Department level. These are handled through the statutory permit and easement agreements. Requests for these agreements should be sent to the Property Specialist by the parties seeking the agreements after contact with the property. The request should include information on the location and extent of the usage, and specifics of any proposed site alteration.

The Property Specialist will review the request and information provided to the State Forester. Additional information may be needed to evaluate the request. The Property Specialist will visit the proposed site and consult with the appropriate property staff. The Property Section staff will develop a recommendation for the Division on the request for review by the Department.

The request, with the Division of Forestry recommendation, is reviewed first by the Advisory Council for the Bureau of Lands and Cultural Resources. The Advisory Council will place a recommendation on the request. Unless there is a question raised or another reason to delay, the request then goes to the Natural Resources Commission for approval. The Natural Resources Commission may approve, deny, or hold the request pending resolution of a question or concern.

Requests that are denied go no further. Requests for which a question or concern is raised may proceed through the process when additional information regarding the question or concern is submitted.

Requests that are approved by the Commission then have an easement document drawn up. The easement document will include a description of the allowed use, the disturbance that is allowed, and a specific location description. Maps showing the location and appropriate engineering drawings will be included as exhibits. If archaeological clearance is needed, it must be obtained before the permit document is signed. Archaeological reviews are the responsibility of the party requesting the easement.

The easement document is first sent to the grantee for signature and notarization. It is then returned to the Property Specialist to obtain the appropriate Department signatures.

The easement is effective at the time of recording.

The original easement document is retained in State Land Office. Copies are sent to the appropriate property for their files, to the grantee, and to Central Office. The Property Specialist will maintain a database and file of easements and other similar agreements. The Property Specialist will periodically review the database to identify those requiring renewal. Properties

will maintain a similar file specific to the property.

Section Bullet Summary

- Requests for land use that have minimal impact or duration can be handled at the property level with a Letter of Permission.
- Requests for land uses that have moderate impact or duration are handled by the Division with a **Letter of Agreement for Temporary Use of State Land**.
- Requests for land uses that have major impact or duration are handled through the Department Easement/Permit process.
- The Property Specialist will maintain records of easements, permits and other similar land use agreements.